TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1925

No. 208

THE UNITED STATES OF AMERICA

vs.

JOSE CANDELARIA ET AL.

ON CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

FILED NOVEMBER 19, 1926

(30699)

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1 The United States Circuit Court of Appeals, Eighth Circuit

UNITED STATES OF AMERICA, APPELLANT
v.
JOSE CANDELARIA ET AL., APPELLEES
No. 6594

Appeal from the District Court of the United States for the District of New Mexico

Statement of facts

The United States Circuit Court of Appeals for the Eighth Circuit hereby certifies that a record on an appeal now pending before it discloses the following:

The United States District Court for the District of New Mexico entered a decree upon the pleadings in an action brought by the United States, as guardian of the Indians of the Pueblo of Laguna, against Jose Candelaria and other claimants to certain lands in that State.

The bill of complaint contained the following allegations:

The suit was brought by authority of the Attorney General of the United States, at the request of the Secretary of the Interior, in furtherance of the Indian policy of the Government, which is functioning as the guardian of the Pueblo of Laguna, a tribe of Pueblo Indians, wards of the United States, incompetent to manage their own affairs, and from a period prior to the year A. D. 1769 the owner of, residing on, cultivating and using for agricultural and pastoral purposes a grant or tract of land situate in the county of Valencia, State of New Mexico, known as the "Paguate purchase," confirmed to the Pueblo of Laguna by act of Congress, March 3, 1869, and patented by the United States of America pursuant to said confirmation, September 22, 1884. The action of the Government officials in bringing the suit was in the general
2 line of official duty in defense of and seeking a judicial determination of the title of the Pueblo of Laguna to the tract or grant of land set out and described in the bill of complaint.

The tract of land in question was originally granted by the Government of Spain to certain individuals whose heirs and assigns, prior to A. D. 1769, sold and conveyed the same to the pueblo of Laguna by deed, in the execution of which the Spanish authorities participated, and which conveyance was subsequently, by deed, June 1, A. D. 1820, executed by a Spanish official known as the "protector-general of the Indians," recognized and confirmed as a conveyance of the said tract to the said pueblo, and again, on August 26, 1826, the last-mentioned deed was approved by the then governor of the Province of New Mexico.

At the time of the acquisition of New Mexico by the United States of America, February 7, 1848, the said pueblo of Laguna was in the possession, and claiming absolute ownership and title under

the foregoing conveyances, of the said tract of land known as the "Paguate purchase," and under the provisions of the treaty of Guadalupe Hidalgo, by virtue of which New Mexico became a portion of the territory embraced within the limits of the United States of America, the said pueblo of Laguna, and the Indians thereof, became and were entitled to its protection and all the benefits accruing to them thereunder.

Within the areas contained in the said "Paguate purchase" there are certain tracts known locally as the Valle Lindero, Piedra Lumbre, and Chupadero, upon which some of the Indians of the pueblo, individually, have cultivated lands for many years, and on which said locally known tracts some of the defendants were permitted by the Indians of said pueblo to cultivate certain areas without interference or molestation. But during the years 1906, 1907, 1908, and 1909 these defendants commenced the fencing of other lands in said locally known tracts, belonging to the said pueblo, by
3 which the Indians were excluded from lands which they had cultivated and irrigated for many years, and by threats, trespasses, and in other ways endeavored to expel the Indians from the choice lands lying in said locally known places.

The pueblo of Laguna was established by the Spaniards in the year 1698, under royal authority and pursuant to the rules and regulations of the Crown of Spain made and provided for the establishment of Indian pueblos in New Spain, of which the province of New Mexico was a part, the Indians constituting said pueblo being made up of the members of several tribes who had abandoned their habitat in other pueblo villages in New Mexico during the wars of the reconquest of the province of New Mexico in the years 1692–1696; during all the years subsequent thereto the Indians of the pueblo of Laguna have lived in villages located at various places upon their lands, among which is the village of Paguate, which is situate within the lands constituting the said "Paguate purchase" and located about half a mile south of the said locally known tract of Valle Lindero.

The defendants live and have their homes at villages located a short distance north of the north boundary of the "Paguate purchase," known as Cebolleta and Moquino; they and their predecessors "squatted" upon divers and sundry small tracts in the said Valle Lindero, Piedra Lumbra, and Chupadero, and are now claiming all of said tracts adverse to the title of the said pueblo of Laguna, and have also attempted to monopolize, to the exclusion of the Indians, large and valuable tracts of land suitable for grazing purposes within the exterior boundaries of the said "Paguate purchase," and the said defendants are claiming title to these tracts within the "Paguate purchase" under a grant, deed, or some other instrument in writing, purporting to convey the title to the particular lands so claimed by them.

The defendants in their answer denied the wardship of appellant. They admitted that the pueblo of Laguna was the owner of the

tract of land known as the "Paguate purchase"; that such ownership, had existed since the passage of the act of Congress of March 3, 1869; that the northern boundary of said "Paguate
4 purchase" was a place known as the Mesa del Gabilan; admitting also the issue by the United States of America of a a patent to said pueblo, but declaring that the description in said patent included land far to the north of the said Mesa del Gabilan. Defendants further answering declared that the Indian claim to such land north of the said Mesa del Gabilan had been, prior to the filing of this suit, adjudicated adversely to the pueblo of Laguna by the District Court of the county of Valencia, in the Territory of New Mexico, in a suit instituted by said pueblo in February. 1910, for the purpose of quieting the Indian title to the tract of land in the bill of complaint described, and in which suit many of the defendants herein had been named as defendants; and that by said adjudication the territorial court had found as matter of fact that the said "Mesa del Gabilan lies to a considerable distance southeast of the Indian town called Paguate, and that the junction of the Canada del Pedro Padilla, which is the other call for said southeast boundary for said Cebolleta grant, lies directly east from said Mesa del Gabilan, the line from said mesa and the point of junction of the said Canadas being the true boundary line of said Cebolleta grant, the said true boundary line and the surveyed southeast boundary line of the Cebolleta grant being a part of the land described and set forth in the complaint, and that "the defendants and their ancestors and predecessors in title had been, from a time beyond the memory of any living man, in the open, notorious, and exclusive possession of portions of the land lying between said true boundary line and said surveyed line of the Cebolleta grant," which is set up in the case at bar as the northeast boundary of the land claimed by said pueblo; and that by the survey of the "Cebolleta grant," which is set up in the case at bar as the northeast boundary of the land claimed by said pueblo; and that by the survey of the Cebolleta grant the southern line of said grant was established far to the north of its actual location on the earth's surface; and that the defendants had such possession under a claim of owner-
5 ship of the land between said two lines under said Cebolleta grant, except that they had not interfered or undertaken to interfere with the Indians at or near the village of Paguate, and that their occupation and possession had been open and notorious, and that no claim by suit at law or in equity had ever been made by the Indians for said tract until said suit was begun; that in said suit so brought by the pueblo of Laguna in the territorial court it was adjudged that the said Pueblo was "not entitled to any relief against the defendants claiming under the Cebolleta grant," but that the conclusion was not to be allowed to interfere in any way with the Indians who before 1908 had been in possession of and cultivating lands north of the said true boundary line of the Cebolleta grant; and that, under the decree of said territorial District Court, it was

held that the said pueblo take nothing by its complaint and that the cause be dismissed.

In other words, it was held by the territorial district Court that a conflict existed between the southern boundary line of the Cebolleta grant as surveyed and the northern boundary line of the "Paguate purchase," constituting an overlap to which those claiming under the Cebolleta grant had the superior title.

Defendants also stated in their answer that, on March 17, 1916, the Pueblo of Laguna instituted another suit in the United States District Court for the District of New Mexico, for the purpose of quieting its title to the same tract of land which was the subject of the suit in the District Court of Valencia County, in the Territory of New Mexico, which later suit, on motion of the defendants, on January 29, 1920, had been dismissed for the reason that the District Court of Valencia County, New Mexico, had jurisdiction of the case in that court, and that the matters presented by the complaint in the District Court for the United States were res judicata and that there was no Federal question in the case.

6 The replication alleged that the judgment in the State suit had been made and entered subsequent to statehood; that the United States of America, as guardian of the Pueblo of Laguna and the Indians thereof, was not a party to said suit so brought by the Pueblo of Laguna in the District Court for Valencia County, Territory of New Mexico, nor in the suit brought by the said pueblo of Laguna in the United States District Court for the District of New Mexico, and had never authorized the bringing of said suits by said pueblo of Laguna, and the attorney appearing for said pueblo in said suits did not, at the time of the bringing thereof, nor at any time thereafter, represent the United States of America, and that the plaintiff is not bound by any judgment or decree of said courts, respectively, entered in said causes.

By its order and decree dismissing the bill of complaint in the case at bar, the District Court for the District of New Mexico found as matter of law that the pueblo of Laguna was a corporation by virtue of a statute of the Territory of New Mexico and capable of suing in respect of its lands, and that this territorial statute was not inconsistent with the guardianship of the United States over the Indians of the pueblo of Laguna, and that the District Court of Valencia County, New Mexico, was a court of general, unlimited jurisdiction, with jurisdiction of the subject matter and of the parties in the suit instituted in that court by the pueblo in 1910, and that its decree therein was a final adjudication of the matters presented in that suit and binding upon the parties thereto and, furthermore, was a complete adjudication of the matters presented by the bill of complaint in the present suit and operating as a bar to the prosecution thereof, and that the dismissal of the suit instituted by the pueblo on the 17th of March, 1916, in the United States Dis-

trict Court for the District of New Mexico, was a further adjudication of the matters presented by the bill of complaint and was also a bar to the prosecution of the present case.

7 It is further certified that the following questions of law arise from the record and are presented, the decision of which is indispensable to a determination of the case. To the end that this court may properly discharge its duty it desires the instruction of the Supreme Court upon them:

Questions certified

Question I. Are Pueblo Indians in New Mexico in such status of tutelage as to their lands in that State that the United States, as such guardian, is not barred either by a judgment in a suit involving title to such lands begun in the territorial court and passing to judgment after statehood or by a judgment in a similar action in the United States District Court for the District of New Mexico, where, in each of said actions, the United States was not a party nor was the attorney representing such Indians therein authorized so to do by the United States?

Question II. Did the State court of New Mexico have jurisdiction to enter a judgment which would be res judicata as to the United States, in an action between Pueblo Indians and opposed claimants concerning title to land, where the result of that judgment would be to disregard a survey made by the United States of a Spanish or Mexican grant pursuant to an act of Congress confirming such grant to said Pueblo Indians?

KIMBROUGH STONE,
United States Circuit Judge.
THOMAS C. MUNGER,
United States District Judge.
ANDREW MILLER,
United States District Judge.

Being the judges who sat in the Circuit Court of Appeals on the hearing of the case.

8 *Clerk's certificate*

In United States Circuit Court of Appeals, Eighth Circuit

I, E. E. Koch, clerk of the United States Circuit Court of Appeals for the Eighth Circuit, do hereby certify that the foregoing certificate in the case of United States of America, appellant, *vs.* Jose Candelaria et al., appellees, No. 6594, was duly filed and entered of record in my office by order of said court; and as directed by said court, the said certificate is by me transmitted to the Supreme Court of the United States for its action thereon.

In testimony whereof, I hereunto subscribe my name and affix the seal of the United States Circuit Court of Appeals for the Eighth Circuit, at office in the city of St. Louis, Missouri, this fourteenth day of November, A. D. 1924.

[SEAL.] E. E. KOCH,
Clerk of the United States Circuit Court of Appeals,
for the Eighth Circuit.

[Indorsed on cover: File No. 30699. United States Circuit Court of Appeals, Eighth Circuit. Term No. 208. The United States of America *vs.* Jose Candelaria, et al. (Certificate.) Filed November 19, 1924. File No. 30699.]

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